

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

SPECIAL STUDY SESSION

April 28, 2003

The Board of Supervisors of Maricopa County, Arizona convened at 12:00 p.m., April 28, 2003, in the Board of Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman; Andy Kunasek, Vice Chairman; Don Stapley and Max W. Wilson. Absent: Mary Rose Wilcox. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Administrative Officer; and Paul Golab, Deputy County Attorney.

DISCUSSION OF RECOMMENDATIONS FROM CITIZEN'S TASK FORCE ON COUNTY HEALTH CARE SYSTEM AND GENERAL LEGISLATIVE UPDATE

Sandi Wilson, Deputy County Administrator
Mark Hillard, Maricopa Integrated Health Systems
Chris Keller, Chief Counsel, Division of County Counsel
Diane Sikokis, Director, Government Relations
Bill Sims, Outside Counsel
Rory Hayes, Lobbyist
Doug Cole, Lobbyist

Chris Keller said that last Thursday the latest draft of the proposed legislation was taken to the Governor's Office. The two options dealing with the DSH Funds (Disproportionate Share Funds) were still part of the bill at that time. Mr. Keller said the legislation has had some changes since last week's meeting and in addition, the Hospital Association has requested some additional changes.

Bill Sims reported that at last Thursday's meeting the State heard strong arguments from the County negotiators for inclusion of their preferred language on eliminating the County as a pass-through and having the DSH funds flow directly from the State to the Hospital District and back again. He added that this started a "lively discussion and it didn't go well." He continued that they do not like that option, they do not agree with the legal analysis and indicated they could make life difficult for the county if there was insistence on this point. Mr. Stapley had suggested a compromise that presented the County's position, but, if it is challenged, the State's option would be the fallback position. Since there was a consensus to proceed with that idea, today's draft presentation has language that protects the County and also accepts the State's option.

Supervisor Stapley felt that the State was anxious to help accomplish what the County wants and needs, saying that, "the Governor's office wants to champion a special healthcare district and help us solve our problem. But they have a few issues that they seem to be getting hung up on."

Bill Sims agreed and said that as tense as negotiations had gotten during the Stadium District meetings, last Thursday's had been even more intense because Supervisor Stapley had carried out the County's negotiating instructions to the letter two or three different times. He had firmly explained that without these options the hospital may need to be closed and the State would be responsible. Mr. Sims stated, "The problem is that the State has any number of ways of extracting revenue from the County, and any number of ways to accomplish its objective. We're already getting some indications as to what the State might do if we can't work things out."

There ensued discussion regarding safeguarding the pass-through methodology especially in regard to the UPL (Upper Payment Limit). If, at any time, the flow of funds was interrupted lawsuits could be filed lengthening the break in funding to the County.

Mr. Sims said that language has now been added (Page 10, Section 16 A of the proposed bill) saying that once the DSH Funds get to the District they're allowed to offset a similar amount from the County. Section

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16 B says if any portion of the transfer can't occur then the State has to stop withholding as soon as they are notified. In Section 16 C, it adds if the State does take funds after the notice, a credit will be issued against future amounts to be withheld from transaction privilege tax revenues in an equal amount. He said that this would accept the State's proposal of DSH transfers from Federal to State to District to County in IGA funds in an amount equal the funds the State withholds from the Transactional privilege tax. Mr. Sims mentioned several other concessions previously made to the State including, but not limited to, not leasing to a non-profit while the DSH is outstanding; a two-year period to catch-up on payments; and not closing the Hospital on July 2, 2003, or ever closing it without a year's advance notice. In return, under separate legislation, the State would include UPL (Upper Payment Limit) language in session law that would permit larger federal funds to flow through the County. The State has yet to accept this language.

Supervisor Stapley explained that the UPL gave the negotiators concern but his understanding is that there is a one-year window and the State wants to take advantage of it. After the first year it would be up to the Hospital District to negotiate and make decisions. He said this has been done in other states where the amounts were small percentages of the UPL.

Sandi Wilson said this UPL payment would affect the 2004 FY budget and since they don't yet know the UPL dollar amount it has not been figured into the budget OMB is preparing. She indicated the State is looking at this for two years and if the District were to proceed it would be one year from the County and the 2nd year from the District. She indicated that there was no negotiation on this matter and if the County had not found out about it the State would have just written it in and then informed the County of the terms.

Bill Sims reported on what he knew of other states dealing with the UPL. He said that Texas got none of it and the UPL benefits all go to their hospitals. In Georgia the state got 84% of the UPL. He said that to adopt Arizona's preference for getting 100% "would put you out on the extreme." He indicated that if these UPL distributions are going to be challenged it will be in the early years, which underscores the need for the protections on the automatic mechanism for the withdrawals that have been written into the Bill.

Chairman Brock responded to the news for financial negotiations that the County had not been privy to in regards to this matter, which he called "dismaying."

Supervisor Kunasek asked why we would think of agreeing to this when the County gets nothing and the State gets everything?

Supervisor Stapley said the State's perspective is that the County is only an arm of State and the State can do whatever it wants. If some County Supervisors decide they want to challenge their actions, "they'd just kill us." He believes the County has to move forward in good faith because getting the Health District formed is what is best for the people of Maricopa County and for the County itself. He also wants to make sure the public is informed and knows the truth and "if the campaign is run well, the public will get behind it. I think this is the solution we've been looking for the ten years I've been here." He added, "Because there's negative things in this, that's no reflection on the County and it's no reflection on how we do business. The prize in this is a Hospital District and that's what we need to keep our focus on and not get hung up mentally on some of the arrogance we are seeing. The Governor and the County have both inherited this financial crisis. We really don't have any other choice but to accept."

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Discussion ensued with much dissatisfaction being voiced by all Board members but with no other viable solution found. Some suggestions were offered regarding resisting the State's move to collect the UPL. Many felt the State would not concede any ground on this point.

Discussion continued with several stating that it is time to "bite the bullet" and discontinue the County's healthcare system altogether because the State has made it impossible to continue. The response was "that isn't really a good option."

Doug Cole reminded the Members that in both of the State Budget drafts a total of \$50 million is expected from all the Counties and whether or not this Bill was under consideration Maricopa County would still be facing a \$32 million "contribution."

Supervisor Stapley said the District is the result of a Citizen's Task Force studying every option and making the strong recommendation that we follow the path that we are following. "We're at a crossroads and I believe the wise thing to do is try to finish the task that we've been charged with, move this Bill through the Legislature and get it done."

Bill Sims reminded the Board of some continuing problems with the Hospital Association. A number of concessions have already been made through the weeks of negotiating draft legislation in an attempt to meet their needs. He said, "Their concerns have been if you're using public dollars they wanted to constrain the competitive impact on their enterprises. Our concerns were, if we're going to start this District off with tax funds it needed to be allowed creativity in how it enhanced its revenues. We thought we had struck a decent bargain." Many of their requests were added and now the private providers have additional concerns. He said, "Generally what they've tried to do is to force you to operate the system as is, where it is, and don't do anything else."

He warned that the County is currently facing "a two-front war" with the State on one side and the private providers on the other. He recommended solidifying the County's negotiations and ultimately their alliance with the State

When asked to speak in a general way about requests the private hospital providers added over the past weekend, Mr. Sims responded, "They've added some language that is unhelpful. They would still like to add to the mission and would like some of the District's revenue to flow out to them."

MEETING RECESSED TO EXECUTIVE SESSION

There being no further business to come before the Board, the meeting was recessed to Executive Session.

ATTEST:

Fulton Brock, Chairman of the Board

Fran McCarroll, Clerk of the Board